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February 27, 2003

Mr. Steve Zappe, Project Leader (WIPP)
Hazardous Waste Permits Program
Hazardous Waste Bureau
New Mexico Environment Department
2909 E. Rodeo Dr., Bldg 1
Santa Fe, NM 87502-6303



Subject: ENVIRONMENTAL COMPLIANCE/DISCLOSURE INFORMATION
RELATED TO WASHINGTON TRU SOLUTIONS LLC (WTS)

Dear Mr. Zappe:

This letter is to provide information to the New Mexico Environment Department (NMED) regarding Washington TRU Solutions LLC (WTS), co-permittee under the Hazardous Waste Facility Permit, #NM4890139088-TSDF, for the U.S. Department of Energy's Waste Isolation Pilot Plant (WIPP), Carlsbad, New Mexico. Specifically, this correspondence submits information pursuant to provisions of the New Mexico Hazardous Waste Act (HWA), set forth at NMSA 1978, § 74-4-4.7 and provides information in response to the environmental compliance provisions of NMSA 1978, § 74-4-4.2.D (3), (4), (5) and (6).

Section 74-4-4.7 of the HWA provides that applicants for a permit pursuant to the HWA must file a disclosure statement with the NMED with information required by, and on a form developed by, the NMED in cooperation with the New Mexico Department of Safety, unless otherwise excluded from the disclosure provisions. On February 20, 2003, WTS was provided forms by NMED for submittal of information in response to section 74-4-4.7 of the HWA. It is our understanding that although the forms were developed by the NMED's Solid Waste Bureau, the Hazardous Waste Bureau uses the same forms and that all references to "solid waste" should be interpreted as "hazardous waste" in the context of completing the forms. We have attempted to complete the forms as fully as possible, based upon information available to us at this time. Some of the information requested in the disclosure forms, particularly the Personal History forms, is not available today. Thus, supplemental information is being aggressively obtained and WTS expects to have an additional package of information to Mr. Zappe at NMED by Friday, March 7, 2003.

Our responses to the environmental compliance provisions of NMSA 1978, § 74-4-4.2.D (3), (4), (5) and (6) are set forth below, after restatement, in question form, of each statutory subsection.



- A. **§ 74-4-4.2.D (3):** Has the applicant been convicted in any court, within ten years immediately preceding the date of submission of the permit application,

WTS has not been convicted in any court.

- B. **§ 74-4-4.2.D (4):** Has the applicant exhibited a history of willful disregard for environmental laws of any state or the United States?

Based upon review of our compliance history, we believe that we have not exhibited a history of willful disregard for environmental laws of any state or the United States. WTS and/or its predecessor organizations at WIPP have periodically received notices of violations and experienced other minor environmental and permit non-compliances. However, our history in no way indicates that we have willfully disregarded any environmental laws. WTS has attempted to satisfy its obligations expeditiously and constantly seeks to improve its environmental compliance record.

- C. **§ 74-4-4.2.D (5):** Has the applicant had any permit revoked or permanently suspended for cause under the environmental laws of any state or the United States?

Our investigation has not revealed any instance in which a permit has been revoked or permanently suspended for cause under the environmental laws of any state or the United States.

- D. **§ 74-4-4.2.D (6):** Has the applicant violated any provision of the New Mexico Hazardous Waste Act, any regulation adopted and promulgated pursuant to that act or any condition of the permit issued under that act?

We have attached a summary detailing our record regarding environmental and permit compliance at WIPP. This attachment seeks to summarize instances in which WTS has violated, or has been alleged to have violated, provisions of the New Mexico HWA, the New Mexico Hazardous Waste Management Regulations or conditions of the WIPP Hazardous Waste Facility Permit issued under the HWA. Also, please note that, in accordance with applicable Hazardous Waste Management Regulations, WTS periodically provides notices of minor permit non-compliances in the Volatile Organic Compound Monitoring Reports submitted to the NMED.

Also, please be aware that the disclosure information provided herein contains confidential company information, as well as personal information regarding WTS personnel, as well as others. Accordingly, we respectfully request that NMED maintain this information in confidence and do not publicly distribute the confidential information contained herein.


Mr. Steve Zappe

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If you have questions regarding our responses or need additional information, please contact Mr. D. Bignell at (505) 234-7545.

Sincerely,


S. D. Warren
President

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Attachments (3) — in separate files

cc: (with attachments)
T. Hughes, NMED
J. Pigg, CBFO
J. Plum, CBFO

(without attachments)
I. R. Triay, CBFO
C. Zvonar, CBFO

Mr. Steve Zappe

February 27, 2003

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bcc: WTS Distribution

(with attachments)

S. D. Warren

GSA-201

WRES Distribution

D.Bignell

GSA-109

ENVIRONMENTAL COMPLIANCE INFORMATION

- (a) On February 5, 1998, the NMED issued a Letter of Violation, alleging noncompliance with a training requirement applicable to a hazardous waste worker at WIPP. The Permittees responded in writing to NMED's concern and on March 17, 1998, the NMED informed the Permittees that the concern raised in its Letter of Violation had been adequately addressed.
- (b) On August 17, 1999, the NMED issued a Letter of Violation alleging noncompliance with hazardous waste aisle spacing, labeling, and tank requirements. The Permittees responded in writing to the NMED and on July 7, 2000, the NMED issued its response, noting that the aisle spacing and labeling concerns had been adequately addressed and that NMED had rescinded its letter of violation as to the tank requirement, in view of consideration and clarification of the WIPP situation.
- (c) On November 30, 1999, the NMED issued Compliance Order HRM 99-05, alleging that the Permittees had inadequately characterized hazardous waste, failed to follow the written waste analysis plan, and had not provided financial assurance. The Permittees responded in writing and on February 22, 2000, the parties executed a Final Stipulated Order, in which all issues were satisfactorily addressed such that Compliance Order HRM 99-05 was dismissed as to all claims.
- (d) On September 24, 2001, the NMED issued a Notice of Violation, alleging that the Permittees had put in effect permit modifications that did not meet the requirements for class 1 modifications and that, as a result, the Permittees had failed to manage, store and dispose of waste as required. The NMED did not require the Permittees' formal response to this Notice, rather the Permittees were directed to comply with a "Schedule of Completion," failure to comply therewith, possibly resulting in the initiation of formal enforcement actions. The Permittees complied with NMED's requests set forth in the Schedule of Completion and re-submitted the class 1 modifications as class 2 modifications, as suggested by NMED. The Permittees complied with NMED's requests and no formal enforcement actions were pursued by NMED.
- (e) On January 7, 2002, the NMED issued a compliance order alleging that the DOE and the MOC had violated the HWFP, citing findings identified by the WIPP Audit Team during a recertification audit of the TRU waste characterization program at the Los Alamos National Laboratory (LANL). The DOE and the MOC agreed that LANL had inadvertently used an incorrect statistical factor in performing routine determination of analytical instrument detection limits related to headspace gas sampling of certain drums of waste sent to and disposed of at WIPP. However, the DOE and the MOC provided the NMED with sufficient technical justification demonstrating that the headspace gas data for the containers in question had been analyzed in compliance with the HWFP's Waste Analysis Plan (WAP). On February 14, 2002, the MOC, the DOE and NMED executed a Settlement Agreement resolving the compliance order. The DOE and the MOC agreed to a payment of twenty five thousand dollars (\$25,000) to settle the matter.